



Meeting Agenda – Audit and Finance Committee
 Genesee County Economic Development Center
 Tuesday, August 4, 2020 – 8:30 a.m.
 Location: Electronically

Page #	Topic	Discussion Leader	Desired Outcome
	1. Call To Order – Enter Public Session Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 202.1 issued on March 12, 2020 suspending the Open Meetings Law, this Meeting is being held electronically via conference call / video conference instead of a public meeting open for the public to attend in person.	M. Gray	
	1a. Executive Session:	M. Gray	
2-4	2. Chairman's Report & Activities 2a. Agenda Additions / Other Business 2b. Minutes: June 30, 2020	M. Gray	Vote
5-8	3. Discussions / Official Recommendations to the Board: 3a. June 2020 Financial Statements	L. Farrell	Disc / Vote
9	3b. 2021 Budget Timeline	L. Farrell	Discussion
	3c. 2021 Budget Input / Assumptions	L. Farrell	Discussion
10	3d. Online Payment Vendor List Revision	L. Farrell	Disc / Vote
11-15	3e. John Jakubowski Contract	M. Masse	Disc / Vote
16	3f. CPL Conceptual Planning & Marketing Services	J. Krencik	Disc / Vote
	4. Adjournment	M. Gray	Vote



GCEDC Audit & Finance Committee Meeting
Tuesday, June 30, 2020 8:30 a.m.
Locations: Electronically

MINUTES

ATTENDANCE

Committee Members: M. Gray, P. Battaglia, A. Young, Pete Zeliff
Staff: L. Farrell, M. Masse, L. Casey, P. Kennett, J. Krencik, S. Hyde, C. Suozzi
Guests: D. Cunningham (GGLDC Board Member), T. Felton (GGLDC Board Member)
Absent:

1. CALL TO ORDER / ENTER PUBLIC SESSION

M. Gray called the meeting to order at 8:30 a.m. via conference call / video conference.

Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo’s Executive Order 202.1 issued on March 12, 2020 suspending the Open Meetings Law, this Meeting is being held electronically via conference / video conference call instead of a public meeting open for the public to attend in person.

2. CHAIRMAN’S REPORT & ACTIVITIES:

2a. Agenda Additions / Other Business – Nothing at this time.

2b. Minutes: June 2, 2020

A. Young made a motion to recommend to the full Board the approval of the June 2, 2020 minutes; the motion was seconded by P. Battaglia. Roll call resulted as follows:

- P. Battaglia - Yes
- M. Gray - Yes
- A. Young - Yes
- P. Zeliff -Yes

The item was approved as presented.

3. DISCUSSIONS / OFFICIAL RECOMMENDATIONS OF THE COMMITTEE:

3a. May 2020 Financial Statements - L. Farrell reviewed with the Committee the significant items of the May 2020 long form financial statements and noted the following:

- Grants receivable decreased by \$21,000. We collected two National Grid STAMP grants that were in place for 2019. These were related to the e3communications contract, as well as marketing and travel related to STAMP.

2b

- On land held for development and sale there was only a small change. There were capitalizable costs in May that related to the GURFs that were processed for STAMP expenditures.
- On liabilities, accrued expenses increased for the monthly NYS Retirement accrual that is paid annually in December.
- On the operating fund, no projects closed in May. However, all projects that have been discussed at the last few meetings are still on track to close.
- Operating expenses are as expected per the budget. There are only a few line items that are over budget for this time of year. These are front loaded expenditures, which are where we would expect them to be at this time of year.
- On the real estate development fund, funds are being spent on the Corfu Wastewater Treatment Facility Construction Expansion. The Town of Pembroke funds that are held in the EDC were committed, which was a balance of about \$15,000. We are starting to see larger expenditures for this mostly on the LDC side.
- On the STAMP fund, there were two GURFs approved. The Del Mar Farms Land purchase was approved as part of the most recent submittal. The closing will take place today.
- On the other funds, there is little activity and expenditures are on track. Some expenditures are very low, including Travel and Conferences and Meetings.

P. Battaglia made a motion to recommend to the full Board the approval of the May 2020 Financial Statements; the motion was seconded by A. Young. Roll call resulted as follows:

P. Battaglia - Yes
M. Gray - Yes
A. Young - Yes
P. Zelif - Yes

3b. Assessment of the Effectiveness of Internal Controls – L. Farrell shared that Public Authorities Law requires all public authorities to complete an annual assessment of the effectiveness of their internal control structures and procedures.

The 2020 Assessment of the Effectiveness of Internal Controls identifies and summarizes the controls in place for major business functions. A list of vendors that can be paid online is included as part of the narrative. There were no changes from 2019 to this year; however, it was noted that the document references the title of "Staff Accountant." "Staff Accountant" should be replaced with "Finance Assistant."

P. Battaglia made a motion to approve the Assessment of the Effectiveness of Internal Controls with the above-mentioned amendment; the motion was seconded by A. Young. Roll call resulted as follows:

P. Battaglia - Yes
M. Gray - Yes
A. Young - Yes
P. Zelif - Yes

3c. \$33M STAMP Grant Review – L. Farrell stated that the status of the \$33M ESD Grant has been provided in the packet for the Committee to review and track progress. The Del Mar Farms Land

purchase was approved as part of the most recent GURF submittal. The closing will take place today. L. Farrell also noted that the agency's relationship with ESD remains positive.

3d. \$8M STAMP Grant Review – L. Farrell stated that the status of the \$8M ESD Grant has been provided in the packet for the Committee to review and track progress. She also noted that the agency's relationship with ESD remains positive.

4. ADJOURNMENT

As there was no further business, A. Young made a motion to adjourn at 8:42 a.m., seconded by P. Zeliff and passed unanimously.

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Genesee County Economic Development Center
June 2020 Dashboard
Balance Sheet - Accrual Basis

	<u>6/30/20</u>	<u>5/31/20</u>	<u>[Per Audit]</u> <u>12/31/19</u>
ASSETS:			
Cash - Unrestricted	\$ 1,608,518	\$ 1,591,260	\$ 1,409,323
Cash - Restricted (A)(1)	11,658,165	12,178,261	13,742,990
Cash - Reserved (B)	790,027	789,829	788,561
Cash - Subtotal	14,056,710	14,559,350	15,940,874
Grants Receivable (2)	66,106	65,850	386,091
Accts Receivable- Current (3)	395,707	363,767	397,089
Deposits	2,832	2,832	2,832
Prepaid Expense(s) (4)	5,569	6,262	33,355
Loans Receivable - Current	53,193	52,615	51,450
Total Current Assets	14,580,117	15,050,676	16,811,691
Land Held for Dev. & Resale (5)	14,493,905	14,186,274	13,886,275
Furniture, Fixtures & Equipment	67,982	67,982	67,982
Total Property, Plant & Equip.	14,561,887	14,254,256	13,954,257
Less Accumulated Depreciation	(67,951)	(67,945)	(67,917)
Net Property, Plant & Equip.	14,493,936	14,186,311	13,886,340
Accts Receivable- Non-current (6)	539,295	539,295	559,295
Loans Receivable- Non-current (Net of \$47,429 Allow. for Bad Debt)	281,526	286,246	309,788
Other Assets	820,821	825,541	869,083
TOTAL ASSETS	29,894,874	30,062,528	31,567,114
DEFERRED OUTFLOWS OF RESOURCES			
Deferred Pension Outflows (12)	160,725	160,725	160,725
Deferred Outflows of Resources	160,725	160,725	160,725
LIABILITIES:			
Accounts Payable (7)	5,720	6,816	927,789
Loan Payable - Genesee County - Current (8)	290,000	290,000	285,000
Accrued Expenses (9)	26,428	16,283	12,608
Unearned Revenue (10)	9,218,550	9,733,265	10,408,563
Total Current Liabilities	9,540,698	10,046,364	11,633,960
Loans Payable - ESD (11)	5,196,487	5,196,487	5,196,487
Loan Payable - Genesee County - Noncurrent (8)	3,425,000	3,425,000	3,715,000
Aggregate Net Pension Liability (12)	199,875	199,875	199,875
Total Noncurrent Liabilities	8,821,362	8,821,362	9,111,362
TOTAL LIABILITIES	18,362,060	18,867,726	20,745,322
DEFERRED INFLOWS OF RESOURCES			
Deferred Pension Inflows (12)	109,989	109,989	109,989
Deferred Inflows of Resources	109,989	109,989	109,989
NET ASSETS	\$ 11,583,550	\$ 11,245,538	\$ 10,872,528

Significant Events:

1. Restricted Cash - ESD deposited \$4M into an imprest account related to the \$8M STAMP grant in November 2019 and \$15.1M into an imprest account related to the \$33M STAMP grant in January 2018. Expenditures out of these accounts are pre-authorized by ESD. In May 2018, the County remitted \$4M to the GCEDC per a Water Supply Agreement, to be put towards water improvements located in the Town of Alabama and the Town of Pembroke and other Phase II improvements as identified by the County. These funds are being used to pay qualifying expenditures.

2. Grants Receivable - YTD decreased due to receipt of funds from National Grid as reimbursement for STAMP expenses.
3. Accounts Receivable (Current) - Econ. Dev. Program Support Grant; MedTech Centre Property Management; termed out Project Origination Fees from Rochester Gas & Electric and HP Hood to be collected in the next 12 months.
4. Prepaid Expense(s) - D&O insurance, life insurance, long-term and short-term disability.
5. Land Held for Dev. & Resale - Additions are related to STAMP development costs.
6. Accounts Receivable - Non-current - Termed out Project Origination Fees from HP Hood that will not be collected within 12 months of the Balance Sheet date.
7. Accounts Payable - e3communications expenses and interest earned on imprest accounts that will be remitted to ESD.
8. Loan Payable - Genesee County (Current & Noncurrent) - Per a Water Supply Agreement with Genesee County, the County remitted \$4M to the GCEDC to put towards water improvements located in the Town of Alabama and the Town of Pembroke and other Phase II improvements as identified by the County. GCEDC will make annual payments to the County of \$448,500 beginning in January 2020.
9. Accrued Expenses - NYS Retirement to be paid in December 2020.
10. Unearned Revenue - Genesee County contribution received in advance; Interest received in advance; Funds received from municipalities to support park development; Funds received from National Fuel to support workforce development; ESD Grant funds to support STAMP development, not actually earned until eligible expenditures are incurred.
11. Loans Payable - ESD - Loans from ESD to support STAMP land acquisition and related soft costs.
12. Deferred Pension Outflows / Aggregate Net Pension Liability / Deferred Pension Inflows - Accounts related to implementation of GASB 68.

(A) Restricted Cash = Municipal Funds, RLF #2 Funds, Grant Funds Received in Advance.

(B) Reserved Cash = RLF #1 Funds (defederalized).

**Genesee County Economic Development Center
June 2020 Dashboard
Profit & Loss - Accrual Basis**

	Month to Date		YTD		2020	2020
	6/30/20	6/30/19	2020	2019	Board Approved Budget	YTD % of Budget
<u>Operating Revenues:</u>						
Genesee County	\$ 19,459	\$ 19,459	\$ 116,755	\$ 116,755	\$ 233,513	50%
Fees - Projects	102,311	500	132,279	202,422	392,000	34%
Fees - Services	6,707	6,687	40,242	40,122	80,483	50%
Interest Income on Loans	325	302	2,009	1,857	3,877	52%
Rent	3,020	1,590	5,130	7,023	23,995	21%
Common Area Fees - Parks	-	-	700	-	-	N/A
Grants (1)	514,933	355,485	1,675,574	1,132,649	26,022,377	6%
GGLDC Grant- Econ. Dev. Program Support	25,000	25,000	150,000	150,000	300,000	50%
GCFC Grant - Econ. Dev. Program Support	-	-	50,000	-	50,000	100%
BP ² Revenue	-	157	-	735	2,698	0%
Other Revenue	547	-	6,994	5,081	5,000	140%
Total Operating Revenues	672,302	409,180	2,179,683	1,656,644	27,113,943	8%
<u>Operating Expenses</u>						
General & Admin	116,905	90,999	656,812	632,626	1,379,649	48%
Professional Services	1,500	1,590	22,308	44,640	96,000	23%
Site Maintenance/Repairs	406	577	2,028	2,527	17,000	12%
Property Taxes/Special District Fees	-	-	2,533	2,951	11,890	21%
PIF Expense	-	-	28,410	14,714	93,824	30%
CBA Pass Through	-	-	-	205,125	-	N/A
Site Development Expense	216,301	349,351	770,773	639,326	2,501,475	31%
Real Estate Development (2)	307,631	13,029	607,630	296,516	25,642,025	2%
Balance Sheet Absorption	(307,631)	(13,029)	(607,630)	(296,516)	-	N/A
Total Operating Expenses	335,112	442,517	1,482,864	1,541,909	29,741,863	5%
Operating Revenue (Expense)	337,190	(33,337)	696,819	114,735	(2,627,920)	
<u>Non-Operating Revenue (Expense)</u>						
Other Interest Income	822	1,108	14,203	18,332	5,000	284%
Econ. Dev. Loan Fund (LDC/County)	-	-	-	(233,764)	-	N/A
Total Non-Operating Revenue (Expense)	822	1,108	14,203	(215,432)	5,000	284%
Change in Net Assets	338,012	(32,229)	711,022	(100,697)	\$ (2,622,920)	
Net Assets - Beginning	11,245,538	10,647,293	10,872,528	10,715,761		
Net Assets - Ending	\$ 11,583,550	\$ 10,615,064	\$ 11,583,550	\$ 10,615,064		

Significant Events:









1. Grants - YTD includes \$448K Community Benefit Agreement payment dedicated to STAMP by sourcing debt service payments to the County; PIF from RJ Properties (Liberty Pumps) supports Apple Tree Acres Infrastructure improvements; PIF from Yancey's Fancy supports Infrastructure Fund Agreement with the Town of Pembroke; ESD \$33M & \$8M Grants support STAMP development costs.
2. Real Estate Development Costs - Includes STAMP development costs.

**Genesee County Economic Development Center
June 2020 Dashboard
Statement of Cash Flows**

	<u>June 2020</u>	<u>YTD</u>
CASH FLOWS USED BY OPERATING ACTIVITIES:		
Genesee County	\$ 19,459	\$ 136,214
Fees - Projects	102,311	141,279
Fees - Services	-	40,182
Interest Income on Loans	287	1,892
Rent	2,820	4,930
Common Area Fees - Parks	-	700
Grants	-	797,204
GGLDC Grant - Economic Development Program Support	-	150,000
GCFC Grant - Economic Development Program Support	-	50,000
Other Revenue	547	6,994
Repayment of Loans	4,142	26,519
General & Admin Expense	(106,094)	(619,404)
Professional Services	(1,500)	(30,161)
Site Maintenance/Repairs	(406)	(2,028)
Site Development	(217,851)	(1,467,095)
Property Taxes/Special District Fees	-	(2,533)
PIF Expense	-	(28,410)
Improv/Additions/Adj to Land Held for Development & Resale	(307,631)	(820,312)
Net Cash Used By Operating Activities	<u>(503,916)</u>	<u>(1,614,029)</u>
CASH FLOWS USED BY NONCAPITAL FINANCING ACTIVITIES:		
Principal Payments on Loan	-	(285,000)
Net Cash Used By Noncapital Financing Activities	<u>-</u>	<u>(285,000)</u>
CASH FLOWS PROVIDED BY INVESTING ACTIVITIES:		
Interest Income (Net of Remittance to ESD)	<u>1,276</u>	<u>14,865</u>
Net Change in Cash	(502,640)	(1,884,164)
Cash - Beginning of Period	14,559,350	15,940,874
Cash - End of Period	<u>\$ 14,056,710</u>	<u>\$ 14,056,710</u>
RECONCILIATION OF NET OPERATING REVENUE TO NET CASH USED BY OPERATING ACTIVITIES:		
Operating Revenue	\$ 337,190	\$ 696,819
Depreciation Expense	6	34
(Increase) Decrease in Operating Accounts/Grants Receivable	(32,196)	339,469
Decrease in Prepaid Expenses	693	27,786
Decrease in Loans Receivable	4,142	26,519
Increase in Land Held for Development & Resale	(307,631)	(607,630)
Decrease in Operating Accounts Payable	(1,550)	(920,833)
Increase in Accrued Expenses	10,145	13,820
Decrease in Unearned Revenue	(514,715)	(1,190,013)
Total Adjustments	<u>(841,106)</u>	<u>(2,310,848)</u>
Net Cash Used By Operating Activities	<u>\$ (503,916)</u>	<u>\$ (1,614,029)</u>

Budget Timeline

Genesee County Economic Development Center

-  In-process Planning Assumptions / Preliminary Inputs
-  Week of July 13 CFO & Sr. VP of Operations Review
-  Week of July 20 CEO Review
-  August 4 Budget Workshop - Audit & Finance Committee Meeting
*Review / Discuss Budget Assumptions and Preliminary Inputs
-  Sept 1 Audit & Finance Committee Review of Draft Budget & Recommendation
-  Sept 3 Board Review & Approval
-  Sept 4 Submission to Genesee County Manager
-  By Nov 1 Budget to ABO/Post on GCEDC Web Site

GCEDC / GGLDC

Pre-Approved List of Vendors That Can Be Paid Online:

- Tompkins Trust Company (Visa)
- Selective Insurance
- Toshiba Financial Services
- National Grid
- National Fuel
- Level 3 Communications (Internet & Phone)
- Verizon (Elevator security phone)
- Five Star Bank (Loan payments)
- KeyBank (Line of Credit payments)
- Bank of Castile
- Five Star Bank
- Quadient (Postage)

List Last Reviewed & Approved by Audit & Finance Committee:

GCEDC - 8/4/2020

GGLDC - 8/4/2020

Mark Masse

Audit & Finance Committee

August 4, 2020

Workforce Development: John Jakubowski Consultant contract

Discussion: John Jakubowski has provided a consulting agreement for the period of August 15, 2020 through August 14, 2021 to perform the following:

1. Perform consulting services to assist in the development and implementation of workforce development programs and training initiatives relative to the goals of the Company and its affiliates.
2. Consult with the VP of Business Development of the GCEDC and staff relative to the application, development and deployment of its workforce programs.
3. Consult with educational institutions who may serve as partnership the development, implementation and delivery of training programs. Specifically, interface with Genesee Community College and its BEST Center, other institutions of higher learning, the Genesee Valley Educational Partnership and local secondary schools as appropriate.
4. Provide consulting services as requested by the GCEDC.

Total contract is not to exceed \$29,800 in total between GGLDC and GCEDC.

Fund commitment: \$29,800 to be covered under strategic investments.

Board Action Request: Approval of consulting contract

3e

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ENGAGEMENT LETTER / CONSULTING AGREEMENT

This Agreement is made this August 6, 2020, for the period August 15, 2020 through August 14, 2021, between the **Genesee Gateway Local Development Corporation/Genesee County Economic Development Center**, collectively (the "Company"), having its principal place of business at 99 MedTech Drive, Batavia, NY 14020 and **John P. Jakubowski**, (the "Consultant"), having a principal place of business at 22 Haverford Lane, Williamsville, NY 14221 (collectively, the "Parties").

COMPENSATION AND SERVICES RENDERED:

The Consultant hereby agrees to perform the following services, as required:

1. Perform consulting services to assist in the development and implementation of workforce development programs and training initiatives relative to the goals of the Company and its' affiliates.
2. Consult with the Company staff relative to the application, development and deployment of its' workforce programs.
3. Consult with educational institutions who may serve as partners in the development, implementation and delivery of training programs. Specifically, interface with Genesee Community College and its' BEST Center, other institutions of higher learning, the Genesee Valley Educational Partnership and local secondary schools as appropriate.
4. Provide consulting services as requested by the Company.

For the services provided to the Company, the Company, agrees to pay the Consultant based upon presentation of a monthly invoice based on the following fee schedule and conditions:

Fee Schedule:

1. A maximum of Three Hundred and Fifty Dollars (\$350.00) per day. Partial days will be billed at an hourly rate of Fifty Dollars (\$50.00) per hour.
2. Mileage expense is to be reimbursed at the prevailing IRS rate per mile.
3. Total remuneration is not to exceed Twenty-Nine Thousand Eight Hundred Dollars (\$29,800.00), for the period August 15, 2020 through August 14, 2021.

The Consultant understands and agrees that the Company may provide a 1099 to the Consultant which shall include all compensation as well as expenses paid by company and it will be the responsibility of the Consultant to maintain adequate records to substantiate all business-related expenses for tax purposes.

TERM

This Agreement shall remain in effect through **August 14, 2021** or until terminated by providing a thirty (30) day written notice of termination with the date of receipt by the recipient party indicating the initiation of the notice period, by either party to this Agreement. This Agreement contains the entire understanding of the parties and may not be amended without the specific written consent of both parties.

If the Parties have failed to renew, modify or terminate this Agreement, for any reason, prior to the Termination Date, then this Agreement shall continue in force until such time as it is terminated in accordance with its provisions.

WARRANTIES BY THE CONSULTANT

The Consultant represents and warrants to Company that Consultant will provide services to Company in a professional, competent and timely manner; that the Consultant has the power to enter into and perform this Agreement, and that the Consultant's performance of this Agreement shall not infringe or violate any federal,

state, or municipal laws. The Consultant shall make no promise or warranty concerning Company's business activity, service or product outside the scope of their responsibilities and the Consultant acknowledges that it has no authority to bind Company to any such promise or warranty made by the Consultant.

INDEPENDENT CONTRACTOR / CONFLICTS OF INTEREST

The Consultant acknowledges that the services rendered under this Agreement shall be solely as an independent contractor. The Consultant further acknowledges that the Consultant is not to be considered an employee of Company, is not entitled to any employment rights or benefits, and that this undertaking is not a joint venture.

The Consultant understands that Company shall not provide employment related insurance, including but not limited to worker's compensation insurance, and agrees to provide adequate insurance coverage for his own activities.

NON-DISCLOSURE OF CONFIDENTIAL INFORMATION AND COVENANT NOT TO COMPETE

The Consultant acknowledges that in and as a result of its association with Company, Consultant will be making use of and acquiring confidential information of a special and unique nature and value relating to such matters as

1. Company's patents, copyrights, proprietary information, trade secrets, systems, procedures, manuals, confidential reports, customer lists and price lists (which are deemed for all purposes confidential and proprietary), as well as the nature and type of products and services rendered by Company; and
2. The equipment, business practices and methods used and preferred by Company's customers, and the fees paid by them.

As a material inducement to the Company to enter into this Agreement and to pay to the Consultant the compensation stated in Paragraph 1, Consultant covenants and agrees that the Consultant shall not, at any time during or following the term of this Agreement for a period of two (2) years:

1. Directly divulge or disclose for any purpose whatsoever any confidential information that has been obtained by, or disclosed to, it as a result of its association with Company **other than that information specifically required as a part of this consulting engagement to individuals only and expressly with a need to know;**

Or

2. Make use of any such confidential information to compete, either directly or indirectly, with Company.

The Parties further agree that the Consultant shall not be requested or required to, and shall not, divulge or disclose any information available to the Consultant in violation of any valid and enforceable confidentiality agreement between the Consultant and any other Party.

OWNERSHIP OF WORK PRODUCT

The Consultant agrees that the Consultant's work product produced in the performance of this Agreement shall remain the property of Company, and that the Consultant will not sell, transfer, publish, disclose or otherwise make the work product available to third parties without Company's prior written consent.

ARBITRATION

Any controversies or claims relating to any aspect of the Agreement, or to its breach, or the relationship created between the Parties shall be settled by arbitration under the rules of the American Arbitration Association. The Parties agree to abide by the arbitrator's decision and also agree that a judgment may be entered upon the award in any court having jurisdiction.

The Parties agree that neither Party shall act to terminate or modify the nature of the parties' course of performance under this Agreement during the pendency of an arbitration, it being the parties' intent to preserve the status quo so as not to jeopardize the rights of either party for the period from the commencement of an arbitration to the entry of the arbitration award.

NOTICES

All notices between the Parties shall be in writing and effective when sent by certified mail to the addresses above stated, unless such addresses are changed by written notification to the other Party.

WAIVER

No failure of either party to exercise any power hereunder or to insist upon strict compliance by the other party with any obligation or provisions hereunder, and no custom or practice of the parties at variance with the terms hereunder shall constitute a waiver of the right to demand exact compliance with the terms hereof.

INDEMNIFICATION

Company will indemnify and hold harmless the Consultant from and against all liabilities and expenses, including reasonable attorneys' fees ("Liabilities"), arising out of any claim by anyone not a party to this Agreement, including third parties, considering (i) Company's material breach or default, (ii) violation of law or regulation applicable to Company, and (iii) representations, guarantees or warranties provided by Company, excluding Liabilities arising out of, or in connection with any gross negligence or willful misconduct of the Consultant.

The Consultant shall indemnify and hold Company and its affiliates and their agents, employees, officers, managers, successors and assigns from and against all Liabilities arising out of, or in connection with, any (i) Consultant's material breach or default, or (ii) violation of law or regulation applicable to the Consultant, excluding Liabilities arising out of, or in connection with, any negligence or willful misconduct of Company.

This indemnity shall survive the termination of this Agreement. The obligation of either party to indemnify the other shall not apply to the extent the loss is due to either party's: a) failure to adhere to the terms of this Agreement; b) failure to comply with any applicable government requirements; or c) negligence or willful misconduct of a party, its directors, officers, agents or employees.

ABILITY TO ENTER AGREEMENT

The parties executing this Agreement hereby covenant and warrant that each respective company has full right and authority to enter into this Agreement, and that each of the persons signing on behalf of the corporation are duly authorized to do so.

RELATIONSHIP OF PARTIES

This Agreement is not intended to constitute or create a joint venture, pooling arrangement, partnership, agency or business organization of any kind. John P. Jakubowski and Company shall be independent contractors for all purposes and neither party shall act as or hold itself out as agent for the other or create or attempt any obligations or liabilities on behalf of the other party.

SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby.

ASSIGNMENT

Neither party may assign this Agreement or its obligations hereunder to any entity, except a corporate subsidiary, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

Neither party shall be liable to the other for its failure to perform any of its obligations hereunder during any period in which such performance is delayed by acts of God, war, Internet or electrical power disruptions, terrorism, civil disorder or disturbance, riot, labor disputes, acts or omissions of the other party or acts or omissions of any third party.

GOVERNING LAW

This Agreement will be governed by the laws of the state of New York, excluding application of its conflict of laws provision.

ENTIRE AGREEMENT

This Agreement contains the Parties' entire understanding and may not be modified except in written form signed by both.

IN WITNESS WHEREOF, Genesee Gateway Local Development Corporation and John P. Jakubowski have duly executed this Agreement as of the day and year first written above.

Dated:

Consultant: John P. Jakubowski

By: _____
John P. Jakubowski
Consultant

Dated:

Company: Genesee Gateway Local Development Corporation

By: _____
Donald Cunningham
President

GCEDC

Jim Krencik, Director of Marketing & Communications

Memo on Clark Patterson Lee Conceptual Planning and Marketing Services

July 22, 2020

In preparation for the next phase of marketing of the WNY STAMP site and the STAMP North and STAMP South campuses to companies, the GCEDC has requested a proposal for conceptual planning and marketing services from Clark Patterson Lee.

This project would commence in August 2020 and provide the GCEDC's sales and marketing effort with enhanced content and materials. As proposed, the project will produce two-dimensional conceptual sites plans for three shovel ready parcels at STAMP that would support more than 1 million square feet of facilities and utilize infrastructure that is currently at STAMP, or under construction in 2020 and 2021. The project will also produce three-dimensional content, including fly-through video utilizing drone aerial flight recordings and building renderings.

This project is intended to enhance STAMP's sales and marketing position as the GCEDC staff prepares delivery of site readiness, site infrastructure, project financing structures, and site marketing for a launch to market for projects at the shovel-ready 400-acre STAMP South campus and 850-acre STAMP North campus.

Based on the project proposal, the estimated cost of all phases would be covered by the GCEDC's 2020 budget. The GCEDC has requested a matching grant by National Grid to cover half the proposed cost of this project.

Board Request: Authorization to contract with Clark Patterson Lee for a cost not to exceed \$10,000.